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**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**FRESNO DIVISION**

In re:  
SHADY ACRES DAIRY,  
Debtor-in-Possession.

Case No. 10-19058-A-11  
Chapter 11  
DC No. KDG-1

Emergency Hearing Date: August 11, 2010  
Emergency Hearing Time: 9:00 a.m.  
Final Hearing Date: To be set  
Final Hearing Time: To be set  
Place: United States Bankruptcy Court  
2500 Tulare Street, Fifth Floor  
Department A, Courtroom 11  
Fresno, California  
Judge: Honorable Whitney Rimel

**MOTION TO USE CASH COLLATERAL  
AND GRANT ADEQUATE PROTECTION**

**MOTION**

SHADY ACRES DAIRY, a California general partnership, Debtor and Debtor-in-Possession in the above-referenced case ("Debtor"), respectfully requests an order authorizing it to use "cash collateral" in the form of bank deposits, milk proceeds, proceeds received from the disposition of livestock in the ordinary course of business, and an anticipated advance to be received from Farm Credit West ("the Cash Collateral"), and to grant adequate protection to the secured creditors asserting an interest in the cash collateral. In support of this motion (the "Motion"), Debtor represents the following:

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3. Venue is properly in this Court pursuant to 28 U.S.C. § 1409(a).

4. In accordance with 11 U.S.C. § 363(b) & (c), Rules 9014, 4001(b), 2002(a)(2) of the Federal Rules of Bankruptcy Procedure (“FRBP”) and Local Rule 9014-1, Debtor seeks an order of the Court authorizing the use of the Cash Collateral, and to grant adequate protection of those secured creditors asserting an interest in the cash collateral.

5. Debtor was formed on January 1, 1999. The partners of Debtor are Beverly Anker (20%), the Bypass Trust under the Will of Edward G. Anker (50%), Edward C. Anker (10%), Christopher Anker (10%), and Joshua Anker (10%). Beverly Anker is the Managing Partner.

7. The dairy industry is suffering one of the worse recessions it has faced. The price of milk paid to dairy farmers is about 30% less than the amount paid to dairy farmers 30

1 months ago. This reduced price has also caused the value of dairy cows to drop. The reduced  
2 price of milk has cause Debtor to fall behind in payments to its creditors. Additionally, Farm  
3 Credit West was unwilling to renew a loan that became due and payable on August 1, 2010.  
4 Therefore, Debtor filed this Chapter 11 case in order to continue the operation of its dairy and  
5 farming business and reorganize its business and financial affairs.

6 8. "Cash Collateral" consists of the following:

- 7 a. money on deposit;
- 8 b. milk proceeds;
- 9 c. proceeds received from the disposition of livestock in the normal  
10 course of business including culling cows and calf sales; and
- 11 d. money from an advance by Farm Credit West to Debtor for the  
12 care and maintenance of the Debtor's herd.

13 9. Debtor anticipates that it will enter an agreement with Farm Credit West  
14 concerning the use of cash collateral. Under the agreement, Farm Credit West will agree to (a)  
15 allow Debtor the use of cash collateral and (b) advance \$70,000.00 to Debtor immediately for  
16 the feeding and care of Debtor's livestock. Under the agreement, Debtor will agree to (a)  
17 provide Farm Credit West the adequate protection indicated below, (b) report its use of cash  
18 collateral to Farm Credit West, and (c) repay the advance on or before September 15, 2010.

19 10. Based upon a search of the records on file with the California Secretary of  
20 State's office, Debtor believes that Farm Credit West, Penny Newman Grain Co., and Penny  
21 Newman Milling, LLC, all have valid UCC financing statements on file. In addition, J.D.  
22 Heiskell Holdings, LLC has filed a UCC financing statement asserting a Dairy Supply Lien  
23 against Debtor. However, Debtor disputes the validity of the lien filed by J.D. Heiskell because  
24 it is the third Dairy Supply Lien filed and only two such liens are allowed by statute. See  
25 California Food and Agricultural Code Section 57402.

1                                   **AMOUNT OF CASH COLLATERAL USE SOUGHT BY DEBTOR**

2           11.     Debtor expects to move quickly in proposing a plan of reorganization, but  
3     Debtor cannot determine with certainty the timetable for filing a plan of reorganization. In the  
4     interim, Debtor seeks the authorization of the Court to use cash collateral from August 2010  
5     through December 2010. However, in order to avoid immediate and irreparable harm, pending  
6     a final hearing on the Motion, Debtor requests interim authorization to use cash collateral on a  
7     weekly basis as set forth in the budget attached as Exhibit "A" (the "Budget") to the Exhibits to  
8     Motion to Use Cash Collateral and Grant Adequate Protection within a 10% variance. Debtor  
9     requests authorization to use about \$660,000.00 from August 9, 2010 through September 5,  
10    2010 as described in the Budget.

11          12.     Debtor will submit a budget indicating purpose and amount of cash collateral  
12    that will be necessary for Debtor from September 6, 2010 through December 2010 before a  
13    final hearing on this Motion.

14                                   **ADEQUATE PROTECTION OFFERED BY DEBTOR**

15          13.     Debtor will provide Farm Credit West, Penny Newman Grain Co., and Penny  
16    Newman Milling, LLC (collectively "the Secured Parties") with adequate protection by:

- 17               a.     caring for and maintaining the Secured Parties' collateral,  
18               b.     granting replacement liens on accounts receivable and other property  
19                       interests generated by Debtor of the same type and nature as existed  
20                       when Debtor filed its case, and  
21               c.     making adequate protection payments to the Secured Parties beginning  
22                       in October 2010 in the amounts that will be indicated in the Budget.

23          14.     Additionally, the interests of the Secured Parties are adequately protected by an  
24    equity cushion.

25                                   **PRAYER FOR RELIEF**

26               **WHEREFORE**, Debtor prays for an order:

- 27               1.     Authorizing it to use the cash collateral from August 2010 through December  
28    2010;

2. Authorizing interim cash collateral on a weekly basis starting on August 9, 2010 and continuing until September 5, 2010, as set forth in the Budget with a 10% variance;

3. Authorizing Debtor to accept an advance from Farm Credit West under the terms of the set forth herein;

4. Granting adequate protection to the Secured Creditors as described above; and

5. For such other and further relief as is just and proper.

Date: August 10, 2010

KLEIN, DeNATALE, GOLDNER,  
COOPER, ROSEN LIEB & KIMBALL, LLP

By: /s/ Hagop T. Bedoyan  
HAGOP T. BEDOYAN  
Attorneys for Debtor-in-Possession